

**DATE:** October 25, 2007

**TO:** CVRC Board Directors

**VIA:** David R. Garcia, Chief Executive Officer

**FROM:** Ann Hix, Acting Community Development Director *ABH*  
Mary Ladiana, Planning Manager, Planning and Building Department *ML*

**SUBJECT:** Public Hearing to Consider DRC-07-33, Retail and Medical Office Complex at 1310-1318 Third Avenue

**SUMMARY**

<b>Action</b>	Recommend that the Chula Vista Redevelopment Corporation approve Design Review (DRC-07-33)						
<b>Developer / Applicant</b>	Tony Zamir						
<b>Project Summary</b>	<b>Location</b>	West side of Third Avenue, south of Palomar Street					
	<b>Site</b>	1310-1318 Third Avenue					
	<b>UCSP</b>	No					
	<b>Project Area</b>	Merged Project Area (Southwest)					
	<b>Product Type</b>	Three single-story retail and medical office buildings with associated parking and landscaping.					
	<b>RAC #1</b> <b>RAC #2</b>	April 5, 2007 June 7, 2007					
<b>CVRC Functions</b>	<b>Function</b>	<b>Project Elements</b>				<b>Rules &amp; Regulations</b>	
	<b>Redevelopment</b>	ENA		DDA/OPA		Cal. Redev. Law	
	<b>Planning</b>	GPA		CUP		General Plan	
		Rezone		Variance		Zoning Code	
						UCSP	
	<b>Design Review</b>	DRC	✓	UCDP		Design Manual	✓
						Landscape Manual	✓
						UCSP	
	<b>Environmental</b>	Exemption	✓	Initial Study		CEQA Guidelines	✓
		ND/MND		EIR			

## **BACKGROUND**

On February 20, 2007, a Design Review application was submitted for development of a 1.23-acre site located on the west side of Third Avenue, south of Palomar Street (see Attachment 1). The proposal involves a three-building, 14,360 square foot retail/medical complex for multi-tenant use. Pursuant to C.V.M.C. 2.55.080, the Chula Vista Redevelopment Corporation has design review authority for all projects within designated redevelopment areas. The project site is entirely within the Merged Chula Vista Redevelopment Project Area and is therefore being presented to CVRC for review and approval. No other discretionary actions are required for development of this site and no Redevelopment Agency involvement (financing, agreements) is associated with the project.

## **REDEVELOPMENT FISCAL IMPACT**

The proposed project will create an estimated increase in assessed valuation of approximately \$2,154,000 and the Agency will receive one percent, or \$21,540, of this increase as tax increment revenue annually. This one percent will be distributed as follows: 20% of the \$21,540 will go to the low and moderate income housing fund. The remaining \$17,232 net tax increment will be distributed as follows: 18% to the County of San Diego; 7% to the Sweetwater Union High School District; 2% to Southwestern Community College; 1% to the San Diego County Office of Education; and 11% to the Chula Vista Elementary School District; leaving the Agency approximately 41% of the 1% increase in assessed valuation available for redevelopment activities. These pass through percentages are applicable to the Southwest Project area only. The estimated annual amounts are shown below:

REVENUE RECIPIENT	PERCENTAGE	ANNUAL TAX INCREMENT REVENUE
Gross Tax Increment		\$21,540.00
Low/Moderate Income Housing Fund	20%	\$4,308.00
Net Tax Increment		\$17,232.00
County of San Diego	18%	3,101.76
Sweetwater Union High School District	7%	1,206.24
Southwestern Community College	2%	344.64
San Diego County Office of Education	1%	172.32
Chula Vista Elementary School District	11%	1,895.52
<b>TOTALS:</b>	<b>59%</b>	<b>11,028.48</b>
<b>Redevelopment Agency</b>	<b>41%</b>	<b>6,203.52</b>

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## **ENVIRONMENTAL**

The proposed project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it was determined that the proposed project qualifies for a Class 32 categorical exemption pursuant to Section 15332 of the State CEQA Guidelines. Thus no further environmental review is necessary.

## **BOARDS/COMMISSIONS RECOMMENDATIONS**

At its meetings of April 5 and June 7, 2007, the Redevelopment Advisory Committee (RAC) reviewed and discussed the application for the proposed retail/medical office complex at 1310-1318 Third Avenue. At the initial meeting in April, the RAC expressed some concerns with the proposed design and suggested minor changes, however, they felt that the proposal was of high quality. On June 7, 2007 a redesigned project was presented to the RAC. The RAC considered that their concerns had been addressed and that the structures were well-suited for the site and a significant improvement to the area (see Attachment 2, RAC Minutes, June 2007).

## **RECOMMENDATION**

Staff recommends that the Chula Vista Redevelopment Corporation adopt a resolution approving Design Review (DRC-07-33), subject to the conditions of Exhibit B attached to the CVRC Resolution.

## **DISCUSSION**

### **1. Site Location and Surrounding Uses**

The 1.23-acre property consists of three parcels and is located on the west side of Third Avenue, south of Palomar Street. The site is zoned CCP (Central Commercial with a Precise Plan Modifier) and its General Plan designation is CR (Commercial Retail). The site is currently occupied with three wooden commercial structures, which will be demolished. The rear of the site is unpaved, unlandscaped and lacks adequate drainage. Land uses adjacent to the project site include retail uses to the east, south, north and multi-family residences to the west.

## **2. Project Description**

The proposed project consists of three single-story shell buildings, one on the north-east corner of the property and two along the south property line of the combined three parcels. Access to the site will be from Third Avenue via one single driveway between the north and south buildings, replacing the three driveways currently in poor condition and serving the site. The buildings will comprise a total of 14,360 square feet. The two buildings along the south property line will be 3,755 square feet (closest to Third Avenue) and 5,790 square feet towards the west side of the site. In the northeast corner of the site the building is 4,815 square feet.

The parking lot will provide a total of 72 parking spaces, including three disabled parking spaces, which is in accordance with the Chula Vista Municipal Code for this use. Other site improvements will include landscaping and the construction of a number of on-site retaining walls around the perimeter. These retaining walls range in height from four to eight feet.

The three proposed buildings will be concrete block with a stucco and decorative stone veneer finish and will be between twenty and twenty-five feet tall. Where visible, the roof will be metal standing seam, with both curved and gabled pitches, in a dusty green shade. Air conditioning units are planned to be roof mounted, and care has been taken to ensure that the units will not be visible from either the street, neighboring properties or anywhere on the site. There will be ample storefront units, all framed in dark bronze, and each entry door will have either an integral overhang or a metal awning in colonial red.

The 24-foot wide two-way driveway entrance is framed by two buildings, a significant landscape strip, and trees bordering the parking lot. Landscaping will be provided along the frontage, as well as throughout the site.

## **3. Development Standards**

The proposed retail and medical office uses are permitted in the CC-P zone and all development standards of the CC-P zone have been met or exceeded. The project was developed in accordance with the following criteria:

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Assessor's Parcel No.:	619-280-46, 47 & 72
Current Zoning	CC-P (Central Commercial with Precise Plan Modifier)
Proposed Zoning	No change
General Plan	CR (Commercial Retail)
Building Coverage	26.7%
Lot Area	1.23 Acres

<b>DEVELOPMENT STANDARDS: REQUIRED</b>	<b>PROPOSED</b>
<b>Setbacks</b> (per CC-P zone) Front Yard: 25 ft. Side Yard: none Rear Yard: 15 feet	 ± 27 ft. none ± 17 feet
<b>Parking</b> (per CVMC 19.62.050) Retail (1/200sf): 72 spaces	 72 spaces

#### 4. Analysis

The project was evaluated in accordance with the goals and objectives of the Chula Vista General Plan (2005), the Zoning Ordinance and the City's Design Manual. While the project site is within the Merged Redevelopment Project Area, the Amended and Restated Redevelopment Plan (2004) for this Project Area defers to the City's General Plan and Zoning Ordinance for land use authority. As described above, the proposed project is consistent with the land use designation in the General Plan and the development standards for the Central Commercial (CC) zone.

The guidelines for commercial development in the City's Design Manual are intended to:

Encourage developments which are unique and creative yet respect the scale, proportion and basic character of their surroundings... (CVDM p. III-1)

While quite uncharacteristic of other buildings in this part of Chula Vista, this proposed development is nevertheless appropriate for its use while being particularly sensitive to the scale of the residential development to the west. By maintaining single story structures and dividing the buildings up into segments of a size reminiscent of residential

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architecture, the overall project is compatible with its residential neighbors. Although it differs in appearance from other commercial projects in that area, this development will still be relatively harmonious with surrounding structures, while providing a standard to which future neighborhood development should aspire.

Promote an attractive, inviting, imaginative and functional arrangement of buildings and parking area, and a high quality of architectural and landscape design which provides for proper commercial access, visibility and identity, but which discourages standardized approaches to commercial site planning and design. (CVDm p. III-1)

The site design is inviting, with individual stores having good visibility and access, and significant and varied entry features giving each store its unique identity. From Third Avenue, the parking is mostly concealed by the structures and landscaping, which is a positive feature and a departure from the standard approach to other, older commercial development along Third Avenue.

There was discussion at both RAC meetings about the desire to have building entrances directly from Third Avenue, however, because of Building Code concerns and the need to provide variable slope in the landscaping between Third Avenue and Building B (furthest south), that was not possible. It was, however, determined that cornice elements on the parapets of both Buildings B and C would make the facades more significant.

The site plan is appropriate and functional, with clearly-identified access to each business, as well as appealing pedestrian routes and distinctive landscape features to break up the parking lot.

Placement of structures should consider the existing built context of the commercial area, the location of incompatible land uses, the location of major traffic generators, as well as an analysis of a site's characteristics and particular influences. (CVDm p. III-2)

The high quality architecture and landscape design provided for the complex makes a significant improvement to a part of the City where many shopping centers are standardized and devoid of character and appeal.

#### **DECISION MAKER CONFLICTS**

Staff has reviewed the property holdings of the CVRC Board and has found no property holdings within 500 feet of the boundaries of the property which is the subject of this action.

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**ATTACHMENTS**

- Attachment 1: Site and Building Plans  
Attachment 2: June 2007 RAC minutes  
Attachment 3: Development Application with the following appendices:  
    Appendix A - Project Description and Justification  
    Appendix B - Disclosure Statement  
    Appendix C - Development Permit Processing Agreement

**PREPARED BY:**     *Ann Pease, Associate Planner*

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Site and Building Plans on file with the Planning Department.  
Please contact the Project Manager, Ann Pease, at (619)  
476-5334 if you would like to review the plans.



4.b. Review No. 2: Third Avenue Center, 1310 Third Avenue

Project Manager: Ann Pease

Summary of Project:

The applicant, Tony Zamir, submitted a design review application (DRC-07-33) for a proposed retail and medical office complex on Third Avenue just south of Palomar. The project proposes the construction of three one-story buildings, providing a total of 14,360 square feet. Buildings A and B are on the south side of the parcel and consist of 5,790 and 3,755 square feet respectively. Building C, intended for medical office use, is planned for 4,815 square feet and is in the northeast corner of the site.

*Revisions in Response to RAC Review No. 1*

## Fire Department Access

- Inadequate room for Fire Department to maneuver in the parking lot. *This requirement has now been satisfied.*
- The Fire Department is now requiring an additional fire hydrant. *Additional Fire hydrant has been added.*

## Walkway Design

- Suggested that the two walkways should be brought directly out to Third Avenue and would function better. *Suggestion could not be implemented. It would require that the walkway come out at an angle and there is insufficient room for the necessary 2% slope to access Third Avenue. Applicant looked at another area to bring a walkway out to Third Avenue and it was not possible either.*

## Storefronts

- Suggested that the storefronts should face Third Avenue. *Due to slope issues and separation issues on both sides of the site it was not possible to put the storefronts facing Third Avenue, so they continue to face inside.*

## Elements between Building C and Building B

- *Additional articulation was brought in to match the other building. Staff feels that the two buildings are now very well matched at Third Avenue*

## Landscaping

- More landscaping was desired. *The site is quite tight and so space is limited for additional landscaping. The applicant did add in excess of 80 plant materials over what had already been provided. Applicant's architect presented some information about materials to be used in triangular planters in the front of the building that absorb water but don't have a curb which could eliminate the accumulation of trash.*

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4.b. Review No. 2: Third Avenue Center, 1310 Third Avenue Cont'd

Project Manager: Ann Pease

Screening

- Roof top equipment screening required. *Equipment screening has been achieved.*

Questions & Comments Received:

General

- RAC suggested the project be presented to the Southwest Civic Association (SWCA). [RAC] *Project was presented to SWCA and was very well received. [Applicant]*
- Felt that the applicant has met all the criteria that were placed on the design and feel very positive about the project. [RAC]

Design

- Likes the saturated colors used. Appreciated Applicant not using the standard beige, which tends to look dated very quickly. [RAC]
- Asked if color of roof will fade. *Roof texture color is factory applied, thru a heating process and will last much longer. [Applicant]*

ACTION: Member D'Ascoli motioned to recommend approval of the project to the CVRC; Member Johnson second the motion; 8-0 unanimous consent to the motion.

5. MEMBER COMMENTS:

Member Gilgun Very impressed with Applicants when their Architects come back for the second review with remedies and solutions to issues raised by board members during the first review.

Vice Chair Felber Happy to see more projects coming to the southwest, hopefully we can get a little bit more in the north.

Member Cohen Appreciate what the Applicant has done with this project.

Member D'Ascoli Noted that when members on the RAC make comments, it isn't "the whole RAC's opinion" only that individual members' comments.

Member Cohen Commented on adhering to time limits and civility of public participation.

Member D'Ascoli Felt that May 3<sup>rd</sup> RAC meeting was out of control; public standing up, shouting and interrupting other speakers. Members serve on the RAC to listen and review projects. Feels it is disrespectful for someone to give a 20

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**Type of Review Requested**

- ☐ Conditional Use Permit  
☒ Design Review  
☐ Variance  
☐ Special Use Permit (redevelopment area only)  
☐ Misc. \_\_\_\_\_

**STAFF USE ONLY**

Case # DRC-07-33  
Filing Date: 2/20/07 By: BL/MT  
Assigned Planner: PAUL ALVAREZ  
Project Account: BL-827  
Deposit Account: DQ-1428  
Related Cases: 15-07-025

**Application Information**

Applicant Name Tony Zamir  
Applicant Address 397 E Street, Chula Vista, CA 91910  
Contact Name Tony Zamir Phone 619-425-9980  
Applicant's Interest in Property (If applicant is not the owner, the owner's authorization signature at the end of this form is required to process this request.) ☐ Own ☐ Rent ☐ Other: \_\_\_\_\_  
Architect/Agent: Schuss - Clark Address: 9474 Kearny Villa Rd. #215  
Contact Name: Jeff Brandon Phone: 858-578-2950 San Diego, CA 92126  
Primary contact is: ☐ Applicant ☒ Architect/Agent Email of primary contact: jeffb@schussclark.com

**General Project Description (all types)**

Project Name: Third Avenue Center Proposed Use Retail/Medical  
General Description of Proposed Project: (3) 1-Story Retail/Medical  
Buildings and Related Site Improvements  
Has this project received pre-application review comments? ☐ Yes (Date: \_\_\_\_\_) ☒ No

**Subject Property Information (all types)**

Location/Street Address: 1310 -1318 Third Avenue  
Assessor's Parcel #: 619-280-46, 47, 72 Total Acreage: 1.23 Redevelopment Area (if applicable): SW  
General Plan Designation: CR Zone Designation: CCP  
Planned Community (if applicable): N/A  
Current Land Use: Retail/Commercial Within Montgomery Specific Plan? ☐ Yes ☐ No

**Proposed Project (all types)**

Type of use proposed: ☐ Residential ☒ Commercial ☐ Industrial ☐ Other: \_\_\_\_\_  
Landscape Coverage (% of lot): 15.3% Building Coverage (% of lot): 26.7%

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**Residential Project Summary**

Type of dwelling unit(s): \_\_\_\_\_ Number of lots: \_\_\_\_\_

**Dwelling units:**

PROPOSED

EXISTING

1 Bedroom \_\_\_\_\_

2 Bedroom \_\_\_\_\_

3+ Bedroom \_\_\_\_\_

TOTAL \_\_\_\_\_

Density (DU/acre): \_\_\_\_\_ Maximum building height: \_\_\_\_\_ Minimum lot size: \_\_\_\_\_ Average lot size: \_\_\_\_\_

**Parking Spaces:**

Required by code: \_\_\_\_\_ Provided: \_\_\_\_\_

Type of parking (i.e. size; whether covered, etc.): \_\_\_\_\_

Open space description (acres each of private, common, and landscaping): \_\_\_\_\_

**Non-Residential Project Summary**Gross floor area: 14,360 Proposed: 14,360 Existing: 0 Building Height: 25'Hours of operation (days & hours): TBD w/individual shops

Anticipated number of employees: \_\_\_\_\_ Maximum number of employees at any one time: \_\_\_\_\_

Number and ages of students/children (if applicable): N/A Seating capacity: N/A**Parking Spaces:**Required by code: 72 Provided: 72Type of parking (i.e. size; whether covered, etc.): 9' x 19' Spaces, Uncovered**Authorization**Print applicant name: Tony ZamirApplicant Signature: A. Zamir Date: 2-20-07Print owner name\*: Tony ZamirOwner Signature\*: A. Zamir Date: 2-20-07

\*Note: Proof of ownership may be required. Letter of consent may be provided in lieu of signature.

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APPLICATION APPENDIX A

Project Description & Justification

Project Name: Third Avenue Center  
Applicant Name: Tony Zamir

Please fully describe the proposed project, any and all construction that may be accomplished as a result of approval of this project, and the project's benefits to yourself, the property, the neighborhood, and the City of Chula Vista. Include any details necessary to adequately explain the scope and/or operation of the proposed project. You may include any background information and supporting statements regarding the reasons for, or appropriateness of, the application. Use an addendum sheet if necessary.

For all Conditional Use Permits or Variances, please address the required "findings" as listed in the Application Procedural Guide.

The scope of this project is to develop a contemporary, stylish, and functional single story retail center, with 14,360 square feet of lease space, to replace a deteriorating and unsightly collection of three small, unrelated buildings, and mixed vehicular and open field use. The existing single story buildings contain less than 3200 square feet of floor space. Paved parking is currently limited to an area immediately adjacent to the street, accessed by three deteriorating driveways. The rear portion of the site is unpaved, with no discernable landscaping, and insufficient drainage.

The property is an existing commercial / retail site in the Southwest redevelopment area, comprised of three parcels totaling 1.23 acres, and is zoned CCP. It is located on the west side of Third Avenue and south of Palomar Street, immediately south of the small strip center which is at the corner of Palomar and Third.

Proposed site improvements will begin with the demolition of the three small, unattractive, wood frame buildings with clapboard siding and stucco, which are old and in poor condition, and are poorly placed on the site. Three volunteer scrub palms which are less than 10' tall will be removed. Proposed grading and site construction will include reducing the overall on-site slopes, the installation of low perimeter retaining walls, and effective site drainage. The drainage system will include a central concrete swale in the parking area, leading to a grassy swale in a landscaped area, and an under-sidewalk drain with media filtration, prior to release through an existing under-sidewalk storm drain.

The proposed retail center includes three single-story shell buildings which will accommodate up to a total of sixteen retail / medical lease spaces. The stucco and ledge stone exteriors with metal roofing and awnings, are expressed in an elegant palette of natural hues.

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The three earth tone shades of stucco and the stonework set off the dusty green of the standing seam roofing, the colonial red metal awnings, and the dark bronze storefront framing. Each of the 14' wide by 10' high storefront units with double entry doors has either an integral overhang or a metal awning, for rain protection, shadowing, and building relief. The contemporary architectural style, with its clean lines and upscale look, will coordinate with the best of the surrounding neighborhood, and transition well with future redevelopment.

Building A, in the southwest corner, is 150' x 38' overall, with 5790 sq. ft. divided into six single lease spaces and one double. It features two awnings, and a central tower section with curved standing seam roof and a steel eyebrow. Building B, in the southeast corner, is 100' x 38' overall with 3,755 sq. ft. divided into 5 lease spaces. It features two awnings, a central tower section with curved standing seam roof and a steel eyebrow, and a quad-gabled end tower with standing seam roofing. Building C, on the north side across the driveway and parking from Building B, is 81' x 60' overall, with 4,815 sq. ft. divided into 4 lease spaces. It features two awnings and a quad-gabled corner tower with standing seam roofing, and presents two storefront window sections to the street. The buildings will be served by a 10' x 25' loading zone and a 20' x 20' x 6' high concrete block gated trash enclosure, in a spice tan coordinating color to match the buildings.

A 24' wide 2-way driveway off Third Avenue near the center of the frontage provides access to a functional looped parking lot, with 72 self-park spaces 9' wide x 19' deep. One accessible parking space is located near each building (one van-accessible), each with its loading zone and ramp to the sidewalk. An attractive and informative pylon sign will be placed adjacent to the driveway. Site lighting will be provided with pole lighting within the parking area.

The site will be fully landscaped, with appropriate irrigation system. Trees include olive trees, southern live oaks, and Italian cypress. Open planted areas will have shrubs including photinia and coast rosemary, with ground covers including marathon grass and sageleaf rockrose. Building walls and retaining walls will have plantings of trumpet vine and star jasmine to soften the site.

A six-foot section of the property along the entire frontage will be dedicated to the City of Chula Vista for an extension of the existing street width, to replace the existing unsightly condition. This will entail the demolition of the existing driveways and the installation of new curbs and gutters and sidewalk, and the new 24' driveway and apron. Two water meters will be relocated because of this dedication.

This extensive construction project clearly involves considerable expense on the part of the owner, as well as the cooperation and agreement of the City and its agencies. The owner will benefit from the increased revenue from additional leased spaces, as well as enjoying unqualified pride of ownership. The neighborhood will benefit from the vastly more attractive appearance, the improved traffic situation, and the availability of a variety of retail and medical venues. The City will benefit from the increased tax revenue provided by the additional retail / medical businesses, the improved traffic flow on Third Avenue, and the major improvement to the city's image by this exciting upgrade of this highly visible property in the heart of the redevelopment area.

## Disclosure Statement

Pursuant to Council Policy 101-01, prior to any action upon matters that will require discretionary action by the Council, Planning Commission and all other official bodies of the City, a statement of disclosure of certain ownership or financial interests, payments, or campaign contributions for a City of Chula Vista election must be filed. The following information must be disclosed:

1. List the names of all persons having a financial interest in the property that is the subject of the application or the contract, e.g., owner, applicant, contractor, subcontractor, material supplier.

Muhammad H.M. ZAMIR

SAFOURA MASSOUMI

owner

owner

2. If any person\* identified pursuant to (1) above is a corporation or partnership, list the names of all individuals with a \$2000 investment in the business (corporation/partnership) entity.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. If any person\* identified pursuant to (1) above is a non-profit organization or trust, list the names of any person serving as director of the non-profit organization or as trustee or beneficiary or trustor of the trust.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Please identify every person, including any agents, employees, consultants, or independent contractors you have assigned to represent you before the City in this matter.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Has any person\* associated with this contract had any financial dealings with an official\*\* of the City of Chula Vista as it relates to this contract within the past 12 months. Yes \_\_\_ No ☒

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If Yes, briefly describe the nature of the financial interest the official\*\* may have in this contract.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Have you made a contribution of more than \$250 within the past twelve (12) months to a current member of the Chula Vista City Council? No ☒ Yes \_\_\_ If yes, which Council member?

\_\_\_\_\_

7. Have you provided more than \$340 (or an item of equivalent value) to an official\*\* of the City of Chula Vista in the past twelve (12) months? (This includes being a source of income, money to retire a legal debt, gift, loan, etc.)  
Yes \_\_\_ No ☒

If Yes, which official\*\* and what was the nature of item provided?

Date: 2-7-07

M. Zamir owner  
Signature of Contractor/Applicant

Mohammad (Tony) ZAMIR  
Print or type name of Contractor/Applicant

- \* Person is defined as: any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver, syndicate, any other county, city, municipality, district, or other political subdivision, -or any other group or combination acting as a unit.
- \*\* Official includes, but is not limited to: Mayor, Council member, Chula Vista Redevelopment Corporation member, Planning Commissioner, member of a board, commission, or committee of the City, employee, or staff members.

September 8, 2006

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## DEVELOPMENT PERMIT PROCESSING AGREEMENT

Permit Applicant:

Applicant's Address:

Type of Permit:

Agreement Date:

Deposit Amount:

Tony M. ZAMIR  
397 E 25th Chula Vista CA 91910  
Development Permit Shopping Center

This Agreement ("Agreement") between the City of Chula Vista, a chartered municipal corporation ("City") and the forenamed applicant for a development permit ("Applicant"), effective as of the Agreement Date set forth above, is made with reference to the following facts:

Whereas, Applicant has applied to the City for a permit of the type aforementioned ("Permit") which the City has required to be obtained as a condition to permitting Applicant to develop a parcel of property; and,

Whereas, the City will incur expenses in order to process said permit through the various departments and before the various boards and commissions of the City ("Processing Services"); and,

Whereas the purpose of this agreement is to reimburse the City for all expenses it will incur in connection with providing the Processing Services;

Now, therefore, the parties do hereby agree, in exchange for the mutual promises herein contained, as follows:

1. Applicant's Duty to Pay.

Applicant shall pay all of City's expenses incurred in providing Processing Services related to Applicant's Permit, including all of City's direct and overhead costs related thereto. This duty of Applicant shall be referred to herein as "Applicant's Duty to Pay."

1.1. Applicant's Deposit Duty.

As partial performance of Applicant's Duty to Pay, Applicant shall deposit the amount aforementioned ("Deposit").

1.1.1. City shall charge its lawful expenses incurred in providing Processing Services against Applicant's Deposit. If, after the conclusion of processing Applicant's Permit, any portion of the Deposit remains, City shall return said balance to Applicant without interest thereon. If, during the processing of Applicant's Permit, the amount of the Deposit becomes exhausted, or is imminently likely to become exhausted in the opinion of the City, upon notice of same by City, Applicant shall forthwith provide such additional deposit as City shall calculate as reasonably necessary to continue Processing Services. The duty of Applicant to initially deposit and to supplement said deposit as herein required shall be known as "Applicant's Deposit Duty".

2. City's Duty.

City shall, upon the condition that Applicant is not in breach of Applicant's Duty to Pay or Applicant's Deposit Duty, use good faith to provide processing services in relation to Applicant's Permit application.

2.1. City shall have no liability hereunder to Applicant for the failure to process Applicant's Permit application, or for failure to process Applicant's Permit within the time frame requested by Applicant or estimated by City.

- 2.2. By execution of this agreement Applicant shall have no right to the Permit for which Applicant has applied. City shall use its discretion in valuating Applicant's Permit Application without regard to Applicant's promise to pay for the Processing Services, or the execution of the Agreement.

3. Remedies.

3.1. Suspension of Processing

In addition to all other rights and remedies which the City shall otherwise have at law or equity, the City has the right to suspend and/or withhold the processing of the Permit which is the subject matter of this Agreement, as well as the Permit which may be the subject matter of any other Permit which Applicant has before the City.

3.2. Civil Collection

In addition to all other rights and remedies which the City shall otherwise have at law or equity, the City has the right to collect all sums which are or may become due hereunder by civil action, and upon instituting litigation to collect same, the prevailing party shall be entitled to reasonable attorney's fees and costs.

4. Miscellaneous.

4.1 Notices.

All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested at the addresses identified adjacent to the signatures of the parties represented.

4.2 Governing Law/Venue.

This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the federal or state courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement, and performance hereunder, shall be the City of Chula Vista.

4.3. Multiple Signatories.

If there are multiple signatories to this agreement on behalf of Applicant, each of such signatories shall be jointly and severally liable for the performance of Applicant's duties herein set forth.

4.4. Signatory Authority.

This signatory to this agreement hereby warrants and represents that he is the duly designated agent for the Applicant and has been duly authorized by the Applicant to execute this Agreement on behalf of the Applicant. Signatory shall be personally liable for Applicant's Duty to Pay and Applicant's Duty to Deposit in the event he has not been authorized to execute this Agreement by Applicant.

4.5 Hold Harmless.

Applicant shall defend, indemnify and hold harmless the City, its elected and appointed officers and employees, from and against any claims, suits, actions or proceedings, judicial or administrative, for writs, orders, injunction or other relief, damages, liability, cost and expense (including without limitation attorneys' fees) arising out of City's actions in processing or issuing Applicant's Permit, or in exercising any discretion related thereto including but not limited to the giving of proper environmental review, the holding of public hearings, the extension of due process rights, except only for those claims, suits, actions or proceedings arising from the sole negligence or sole willful conduct of the City, its officers, or employees known to, but not objected to, by the Applicant. Applicant's indemnification shall include any and all costs, expenses, attorney's fees and liability incurred by the City, its officers, agents, or employees in defending against such claims, whether the same proceed to judgement or not. Further, Applicant, at its own expense, shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees. Applicant's indemnification of City shall not be limited by any prior or subsequent declaration by the Applicant. At its sole discretion, the City may participate at its own expense in the defense of any such actin, but such participation shall not relieve the applicant of any obligation imposed by this condition.

4.6 Administrative Claims Requirements and Procedures.

No suit or arbitration shall be brought arising out of this agreement against the City unless a claim has first been presented in writing and filed with the City of Chula Vista and acted upon by the City of Chula Vista in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by the City in the implementation of same. Upon request by City, Consultant shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

Now therefore, the parties hereto, having read and understood the terms and conditions of this agreement, do hereby express their consent to the terms hereof by setting their hand hereto on the date set forth adjacent thereto.

Dated: \_\_\_\_\_

City of Chula Vista  
276 Fourth Avenue  
Chula Vista, CA

By: \_\_\_\_\_

Dated: 2-20-07

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: 

3-19

CVRC RESOLUTION NO. 2007 \_\_\_\_\_

RESOLUTION OF THE CHULA VISTA REDEVELOPMENT  
CORPORATION APPROVING DESIGN REVIEW PERMIT (DRC-  
07-33) TO ALLOW THE CONSTRUCTION OF A 14,360 SQUARE  
FOOT RETAIL/MEDICAL OFFICE COMPLEX ON THE SITE  
LOCATED AT 1310-1318 THIRD AVENUE

WHEREAS, the parcel, which is the subject matter of this resolution, is represented in Exhibit A attached hereto and incorporated herein by this reference, and for the purpose of general description is located at 1310-1318 Third Avenue, Chula Vista; and

WHEREAS, a duly verified application for a Design Review Permit (DRC-07-33), was filed with the City of Chula Vista on behalf of Mr. Tony Zamir ("Applicant") to enable the development of a retail/medical office project located at 1310-1318 Third Avenue ("Project"); and

WHEREAS, the proposed project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it was determined that the proposed project qualifies for a Class 32 categorical exemption pursuant to Section 15332 of the State CEQA Guidelines. Thus no further environmental review is necessary; and

WHEREAS, a hearing time and place was set by the Chula Vista Redevelopment Corporation for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, the Chula Vista Redevelopment Corporation held a duly noticed public hearing to consider said application at the time and place as advertised, namely October 25, 2007 at 6:00 p.m. in the Council Chambers, 276 Fourth Avenue, before the Chula Vista Redevelopment Corporation and said hearing was thereafter closed.

NOW, THEREFORE, BE IT RESOLVED that the Chula Vista Redevelopment Corporation does hereby find, determine, and resolve as follows:

CONFORMANCE WITH CITY DESIGN MANUAL

The Chula Vista Redevelopment Corporation does hereby find that the Project is in conformance with the City of Chula Vista Design Manual, Landscape Manual and the requirements of the Zoning Ordinance.

BE IT FURTHER RESOLVED, that the Chula Vista Redevelopment Corporation, after considering all evidence and testimony presented, Approves Design Review Permit (DRC-07-

3-20

33), subject to the conditions of Exhibit B to allow the construction of a 14,360 square foot retail/medical office complex.

Presented by:

Approved as to form by:

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Ann Hix  
Acting Community Development Director

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Ann Moore  
General Counsel

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**Design Review Conditions of Approval  
Retail & Medical Office Complex  
1310-1318 Third Avenue**

The Chula Vista Redevelopment Corporation does hereby approve Design Review Permit DRC-07-33 subject to the following conditions:

**COMMUNITY DEVELOPMENT DEPARTMENT**

1. The subject property shall be developed and maintained in substantial conformance with the approved application, plans, and color and material board, except as modified herein.
2. Applicant shall submit all exterior lighting plans, landscape and irrigation plans, solid waste and recycling plans for review and approval prior to the issuance of building permits.
3. All utility meters and closets shall be painted to match the colors of the building elevations or shall be screened appropriately from public view.
4. Identification signs shall be limited to those signs permitted by Section 19.60.400 and Section 19.60.410 of the Chula Vista Municipal Code (CVMC) and shall comply with the regulations stated therein.
5. A graffiti resistant treatment shall be specified for all wall and building surfaces and shall be noted on all building and wall plans prior to issuance of building permits.
6. All ground mounted utility appurtenances, such as transformers, AC condensers, etc., shall be located out of public view and adequately screened to the satisfaction of the City.
7. Applicant shall provide grading plans with the submittal for building permits that shall contain on and off-site spot elevations and grading/drainage information.
8. Landscape Plans for all on-site improvements shall be completed by a licensed Landscape Architect and are required with building permit submittal. Complete construction documents for all areas in the public right-of-way shall be submitted for review and approval by the City Landscape Architecture Division.
9. The applicant/owner shall comply with all applicable federal, state, and local requirements, and in any case where it does not comply, this permit is subject to modification or revocation.
10. This permit shall become void and ineffective if not used or extended within one year from the effective date thereof, in accordance with Section 19.14.600 of the Municipal Code.
11. This permit shall be subject to any and all new, modified, or deleted conditions imposed after approval of this permit to protect the public from a specific condition dangerous to its health or safety or both due to the project, which condition(s) the City shall impose after advance written notice to the permittee and after the City has given the permittee the right to be heard with regard thereto. However, the City in exercising this reserved right/condition, may not impose a substantial expense or deprive permittee of a substantial revenue source which the permittee cannot, in the normal operation of the use permitted, be expected to economically recover.

12. The applicant shall and does hereby agree to indemnify, protect, defend, and hold harmless the City, its Council members, officers, employees, agents, and representatives from and against all liabilities, losses, damages, demands, claims, and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising directly or indirectly from a) City's approval and issuance of this permit, b) City's approval or issuance of any other permit or action, whether discretionary or non discretionary, in connection with the use contemplated herein, and without limitation, any and all liabilities arising from the operation of the facility. Applicant shall acknowledge their agreement to this provision by executing a copy of this permit where indicated below. The applicant's compliance with this provision is an express condition of this permit and this provision shall be binding on any and all of the applicant's successors and assigns.

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Applicant and/or Property Owner

#### **PLANNING AND BUILDING DEPARTMENT CONDITIONS**

13. Plans submitted for building permits shall contain a statement on the cover sheet indicating that this project shall comply with Title 24 (2005 Energy Conservation and 2001 Disabled Access Regulations).
14. The project shall comply with applicable codes and requirements, including but not limited to 2001 CBC, CMC, CPC, and 2004 CEC requirements.
15. Walls less than twenty feet from property lines shall be one-hour rated.
16. A shoring program to protect adjacent buildings shall be provided.
17. Plans submitted on or after January 1, 2008 must comply with new international codes.

#### **ENGINEERING DEPARTMENT CONDITIONS**

##### **Site Plan and Fees**

18. The following fees shall be required based on the final building plans submitted:
- a) Sewer Connection and Capacity Fees
  - b) Development Impact Fees
  - c) Traffic Signal Fees
19. Additional deposits and fees in accordance with the City Subdivision Manual shall be required for the submittal of the following items:
- a) Grading Plans
  - b) Construction Permit



20. Existing and proposed sanitary sewer lines shall be shown on building plans, and shall indicate how the site will connect to the City's public sewage system. No sewer lines shall be allowed to be located under existing or proposed buildings.
21. Project is required to dedicate an additional 5' wide sewer & access easement along the westerly edge of the existing easement for a total of 15 foot wide as required per the City of Chula Vista's Subdivision Manual.
22. An encroachment permit is required for all private surface improvements within the 15-foot sewer easement prior to any building permit approval for the Project. No permanent structures or equipment are allowed within the sewer easement.

### **Public Improvements**

23. The Engineering Department shall require the applicant to obtain a construction permit to perform any work in the City's right-of-way, which may include, but is not limited to:
  - a) Construction of street widening, curb, gutter, and sidewalk along the entire project frontage. Transitions to existing improvements shall occur beyond the project frontage and shall be approved by the City Engineer.
  - b) Construction of driveways meeting design standards as shown in Chula Vista standard detail CVCS-1A.
  - c) Installation of pedestrian ramps, if needed.
  - d) Sewer, storm drain and other utility connecting to public systems.
  - e) All utilities serving the proposed shall be underground.
24. Approved improvement plans and construction permit is required prior to Engineering releasing any Building Permits for the project.
25. Landscaping or signage shall not interfere with sight lines for cars exiting the driveway from Third Avenue.
26. The driveway shall be a "right in/right out" only. The median is striped as double-double yellow painted island.
27. Any improvements in the right-of-way beyond the project limits shall be made as to not interfere with adjacent businesses as approved by the City Engineer.

### **Grading and Drainage**

28. Grading plans, in conformance with the City's Subdivision Manual, and a grading permit shall be required prior to issuance of any building permits. The grading plans shall be submitted to the Engineering Department.
29. The grading plan shall be prepared by a registered civil engineer and approved by the City Engineer.

30. A drainage study and geotechnical/soils study are required with the first submittal of grading plans. The drainage study shall calculate the predeveloped and postdeveloped flows and show how downstream properties and storm drain facilities are impacted. Design should incorporate detention of storm water runoff if required.
31. The grading plans shall conform to the City Storm Water Management requirements.
32. All onsite drainage facilities shall be private.
33. Any offsite work shall require letters of permission from the affected property owner.
34. All retaining walls shall be noted on the grading plans and include a detailed wall profile.
35. Structural wall calculations are required if walls are not built per City Standards and if fences are to be placed on top of retaining walls.
36. Retaining walls that will be part of a building wall must be approved as part of the building permit for the project.

#### **Mapping**

37. Dedicate a total of six feet of right-of-way along Third Avenue to meet Class I Collector design standard CVD-ST21.
38. A lot line consolidation or adjustment plat may be required in order to avoid existing parcel lines beneath proposed structures.

#### **Storm Water Management**

39. The applicant is required to complete the applicable Storm Water Compliance Forms and comply with the City of Chula Vista's Storm Water Management Standards Requirements Manual. These forms shall be submitted with the grading plans. All projects falling under the Priority Development Project Categories are required to comply with the Standard Urban Storm Water Mitigation Plans (SUSMP) and Numeric Sizing Criteria. Based on the Completion of the Storm Water Compliance Forms, the project may be required to submit a SWPPP and Water Quality Technical Report (WQTR) with the submittal of the grading plans. The following items shall be incorporated in the grading plans and related reports:
  - a) Grading Plans: The applicant is required to implement Best Management Practices (BMPs) to prevent pollution of the storm water conveyance systems, both during and after construction. Permanent storm water requirements shall be incorporated into the project design, and shall be shown on the grading plans. Any construction and nonstructural BMPs requirements that cannot be shown graphically must be either noted or stapled on the plans.
  - b) SWPPP and WQTR: Development of the project shall comply with all applicable regulations, established by the United States Environmental Protection Agency

(USEPA) as set forth in National Pollutant Discharge Elimination System (NPDES) permit requirements for urban runoff and storm water discharge, and any regulations adopted by the City of Chula Vista pursuant to the NPDES regulations and requirements. Further, the applicant shall file a Notice of Intent (NOI) with the State Water Resource Control Board to obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity and shall implement a Storm Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading activities. The SWPPP shall include both construction post-construction pollution prevention and pollution control measures, and shall identify funding mechanisms for the maintenance of post-construction control measures.

- c) WQTR: The applicant is required to identify storm water pollutants that are potentially generated at the facility, and propose Best Management Practices (BMPs) that will be implemented to prevent such pollutants from entering the storm drainage systems. The WQTR will be required to demonstrate compliance with requirements of the National Pollutant Discharge Elimination System (NPDES) Construction and Municipal Permits, including Standard Urban Storm Water Mitigation Plans (SUSMP) and Numeric Sizing Criteria requirements, with the first submittal of grading/improvement plans, in accordance with the City's Manual.

#### **FIRE DEPARTMENT CONDITIONS**

40. Applicant shall comply with all conditions of the Fire Department prior to the issuance of building permits.

#### **GENERAL SERVICES DEPARTMENT CONDITIONS**

41. The applicant shall develop and submit a Recycling and Solid Waste Management Plan to the Environmental Services Program Manager for review and approval prior to the issuance of building permits. The Plan shall demonstrate those steps the Applicant will take to comply with Municipal Code, including but not limited to Sections 8.24, 8.25 and 19.58.340 and meet the State mandate to reduce or divert at least 50% of the waste generated by all residential, commercial and industrial developments (including demolition and construction phases).

#### **OTHER CONDITIONS**

42. Applicant shall comply with the conditions and requirements of the Chula Vista Elementary School District prior to issuance of building permits.
43. Applicant shall comply with the conditions and requirements of the Sweetwater Authority prior to the issuance of building permits.